

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

RECEIVED

NOV 13 2002

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Rules and Regulations Implementing)
the Telephone Consumer Protection)
Act of 1991)

CG Docket No. 02-278

MOTION FOR EXTENSION OF TIME

The American Teleservices Association ("ATA), by counsel and pursuant to 47 C.F.R. § 1.46, respectfully requests an extension of time for filing comments and replies in the above-referenced proceeding. **An** extension of time is necessary to develop a full and adequate record because (i) critical documents cited by the Commission as motivating factors in establishing the instant docket remain unavailable for public inspection, and (ii) the 15-day comment-reply comment period is too short given the volume of comments likely to be filed in the proceeding.^{1/} Given that the Commission's rules implementing the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. § 227, have been in place for over ten years, an extension of the comment and reply deadlines would not unduly affect the FCC's administration of the law but would help ensure a complete and meaningful record in this proceeding

^{1/} Though the comment deadline is still nearly two weeks away, there already are more than **150** items on file in the docket.

Accepted for filing 014
LAW OFFICE

Mr. [illegible]
To

I. THE COMMISSION MUST EXTEND THE DEADLINE FOR INITIAL COMMENTS ON THE *TCPA* NPRM

In the Notice of Proposed Rulemaking (“NPRM”) commencing this proceeding, the Commission stated that the “NPRM is prompted, in part, by the increasing number and variety of inquiries and complaints involving our rules on telemarketing and unsolicited fax advertisements.” ^{2/} The Commission notes that it received over **11,000** complaints about telemarketing practices for the period January **2000** through December **2001**.³¹ It also notes that it received over **1,500** inquiries about predictive dialing between June **2000** and December **2001**. ^{4/} As these complaints and inquiries form a significant part of the rationale underlying the Commission’s issuance of the *TCPA* NPRM, ATA requested public access to them. Specifically, counsel for ATA first contacted FCC staff to inquire where the complaints and inquiries had been compiled for counting in advance of the *TCPA* NPRM and for public inspection in responding thereto. Counsel was informed that the only means of reviewing the documents would be filing a request under the Freedom of Information Act (“FOIA”) and the FCC’s rules implementing it. See **5 U.S.C. § 552(b)**; **47 C.F.R. § 0.441** et seq.

Counsel for ATA submitted a FOIA request on October **16, 2002**. FOIA Control No. **2003-023** (Oct. 17, **2002**) (see Tab **1**). In follow-up conversations

^{2/} Rules **and** Regulations Implementing the Telephone Consumer Protection Act of 1991, Notice of Proposed Rulemaking and Memorandum Opinion and Order, CG Docket No. **02-278**, FCC **02-250**, ¶ 8 (rel. Sept. 18, **2002**) (“*TCPA* NPRM”).

^{3/} *Id.*

^{4/} *Id.* ¶ **26**

regarding the FOIA request, the Commission's staff indicated it would take 6-8 months to provide the requested documents. On November 6, 2002, counsel for ATA met with K. Dane Snowden, Chief of the Consumer and Governmental Affairs Bureau ("CGB"), and several other members of the CGB staff, along with a representative from the Commission's Office of General Counsel. 5/ The staff offered several options that fell well short of complying with the FOIA request, such as producing a sample of several hundred of the 11,000 complaints. The Bureau's offer, though appreciated, reinforces the fact that a full response to the FOIA request may not be possible for several months, notwithstanding the impending November 22, 2002, deadline for commenting on the *TCPA NPRM* and the December 9, 2002, reply deadline.

On November 7, 2002, counsel for ATA submitted two letters following on the meeting with the CGB staff (see Tabs **3 & 4**). The first letter memorialized the meeting and scope of the FOIA request as clarified through discussion at the meeting. The letter also memorialized the understanding that a written response to the FOIA request is due November 14, 2002, and that the staff anticipates it **will** exercise the ten-day extension set forth in the rules, 47 C.F.R. § 0.461(g), which will extend the time for substantive response to the FOIA request to November 29, 2002. The second letter, while confirming ATAs continued interest in receiving all the documents sought by its FOIA request, agreed as an interim measure to receipt of

51 See Letter to Marlene H. Dortch, Secretary, Federal Communications Commission, from Ronald G. London, Counsel for ATA, filed in CG Docket No. 02-278 (Nov. 7, 2002) (*see* Tab 2).

a two-month sampling of responsive documents while the rest of the documents responsive to the FOIA request are compiled.^{6/} Notwithstanding this interim compromise, it is clear there is no possibility that the documents – which remain unavailable to ATA or for public comment – can be reviewed and meaningfully commented upon under the current deadlines.

The telemarketing complaints and predictive dialer inquiries sought by ATAs FOIA request are cited by the Commission as principal factors for issuing the *TCPA NPRM*, which inquires into current telemarketing practices and regulations, and proposes far-reaching new rules that would significantly impact telemarketing efforts, including those by ATA members. If the Commission is to build a complete record for consideration of the issues raised by the NPRM, it is imperative that it provide commenters the ability to review the complaints, inquiries and other submissions already on file, which the Commission has relied upon, and to allow a fair opportunity for comment.

While it is the Commission's policy that extensions of time are not routinely granted, the Commission has granted such extensions for good cause on a case-by-case basis.^{7/} The Commission has ruled that extensions of time may be necessary when "comments prove to be voluminous, the parties would not have

^{6/} The letter consented to receipt of "complaints received about telemarketing practices" referenced at ¶ 8 of the *TCPA NPRM* for the months August 2001 and March 2002, requested the documents be provided no later than November 14, 2002, and further requested provision of the remaining documents responsive to the FOIA request on a rolling basis as they become available for release.

^{7/} See 47 C.F.R. § 1.46(a)

sufficient time to analyze and respond to comments, or the filings raise complex substantive matters.” 8/ The Commission has also granted extensions of time because of “the complexity and volume of the issues raised in a proceeding, 9/ a “desire to obtain accurate and complete data,” 10/ and to allow commenters to obtain additional information to provide a more developed record. 11/

In this proceeding, the Commission specifically asked for comment on whether proposed new rules would comport with the First Amendment under the test set forth in *Central Hudson Gas & Elec. Corp. v. Public Service Commission*, 447 U.S. 557 (1980). See *TCPA NPRM* ¶¶ 12, 50. That standard requires proof that, among other things, the government’s actions are supported by a substantial interest that is “real, not merely conjectural.” *Turner Broadcasting Sys., Inc. v. FCC*, 512 U.S. 622, 664 (1994) (citing *Edenfield v. Fane*, 507 U.S. 761, 770-771 (1993)). Where, as here, there will be only very limited access to the complaints, and no way to determine how many relate in any way to “do-not-call” issues, there

8/ *Developing a Unified Intercarrier Compensation Regime*, 16 FCC Rcd 16822, ¶ 3 (CCB 2001) (extending time for reply based on 75 comments filed).

9/ *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, 17 FCC Rcd 8114, 8114-15, ¶ 2 (WCB 2002); *Review of Regulatory Requirements for Incumbent LEC Broadband Telecommunications Services*, 17 FCC Rcd 5357, ¶ 2 (CCB 2002).

10/ *Id.*; *Appropriate Framework for Broadband Access to the Internet Over Wireline Facilities*, 17 FCC Rcd 5355, 5356, ¶ 2 (CCB 2002).

11/ *Americatel Corporation and Telecom Italia of North America, Inc.*, 17 FCC Rcd 12982, 12982-83, ¶ 3 (Int’l Bur. 2002); *Federal-State Joint Board on Universal Service*, 17 FCC Rcd 9596, 9597, ¶ 3 (WCB 2002); *XO Communications Application for Consent to Transfer Control*, 17 FCC Rcd 6363, ¶ 2 (Int’l Bur. 2002).

is no way to meaningfully address the questions raised unless the comment period is extended.

The Commission recently granted an extension of time in the public interest under circumstances similar to those present in this proceeding. In the *2002 Biennial Regulatory Review* on broadcast ownership, the Commission's Media Ownership Working Group on November 5, 2002, released, in the face of a December 2, 2002, comment deadline, additional information relating to media studies the Commission had placed in the docket in the proceeding. ^{12/} At the same time, the Commission extended the comment deadline since it had asked for "detailed proposals, legal arguments and empirical studies" in the proceeding and "more time will assist the parties in gathering and analyzing evidence that will enable them to provide such material and facilitate the Commission's decision-making." ^{13/} Essentially, the Commission found that if it was going to place documents in issue over which it was in complete control, as was the case with the media studies in the ownership proceeding, it was obligated to provide sufficient time for the parties to analyze the information before filing comments.

^{12/} See *FCC's Media Bureau Adopts Procedures for Public Access to Data Underlying Media Ownership Studies and Extends Comment Deadlines for 2002 Biennial Regulatory Review Of Commission's Media Ownership Rules*, MB Docket No. 02-277, MM Docket Nos. 01-235, 01-317, 00-244, Public Notice, DA 02-2980 (Nov. 5, 2002).

^{13/} *2002 Biennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 2002 of the Telecommunications Act of 1996*, MB Docket No. 02-277, MM Docket Nos. 01-235, 01-317, 00-244, Order, DA 02-2989, ¶ 4 (Nov. 5, 2002).

In much the same way, ATA's instant request fits squarely within Commission precedent for grants of extension requests. The Commission maintains exclusive control over the telemarketing complaints and predictive dialer inquiries it received on which the *TCPA NPRM* is based. The inability of commenters to review and address the telemarketing complaints that underlie this proceeding will greatly affect the accuracy and completeness of the record in this docket. Indeed, the situation here is even more critical than that involving the media studies, in that, at least in the ownership proceeding, the documents have been made available and will be available for two full months of review and analysis before comments are due.

Here, there is no guarantee when, or whether, all of the documents ATA seeks will be made available. **As** such, the proceeding should be postponed until these critical documents, or at least a significant portion of them, are available for public inspection. Toward that end, ATA requests that the Commission extend the comment deadlines on the *TCPA NPRM* for a period of at least 90 days, or **30** days after a date on which the Commission commits the documents requested by ATA will be made available. Only an extension of this nature will ensure that the complaints and inquiries the Commission has received are available for public review, and will allow the parties to analyze and comment upon those documents.

II. THE COMMISSION SHOULD ALSO EXTEND THE DEADLINE FOR REPLY COMMENTS ON THE *TCPA NPRM*

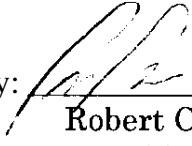
The reply deadline in the *TCPA NPRM* also should be extended. At present, replies are due just fifteen days after the initial comments. Notably, over 150 comments from individuals have already been filed in this proceeding, and given the potentially far-ranging impact new FCC telemarketing rules can have, the record in this proceeding will likely be quite extensive. The current fifteen-day reply cycle is far too short a time to meaningfully review and respond to so large a record. This problem is exacerbated by the fact that comments are currently due on or before the end of November **22, 2002**, a Friday, and will likely not be widely available to most parties before at least the following Monday, November **25, 2002**, the week of the Thanksgiving holiday. All told, the effective reply period for this proceeding is little more than a week. That is simply too brief a time to fully develop the record upon which the Commission will determine whether to adopt new rules.

As such, in addition to its request for an extension of the initial comment deadline in this proceeding, ATA respectfully submits that, if the existing November **22, 2002**, initial comment deadline is maintained, the Commission should extend the reply deadline by an additional thirty days, to provide a forty-five day period (including the Thanksgiving, Christmas and New Year's holidays) to file reply comments. This would result in a reply comment deadline of January **6, 2002**. To the extent the Commission grants ATA's request for extension of the initial comment deadline, ATA respectfully requests that the Commission enlarge the

reply period from fifteen to thirty days to **allow** parties to fully analyze and respond to what surely ~~will~~ be extensive comments in this proceeding.

Respectfully submitted,

**AMERICAN TELESERVICES
ASSOCIATION**

By:  _____
Robert Corn-Revere
Ronald G. London

HOGAN & HARTSON L.L.P.
555 Thirteenth Street, N.W.
Washington, D.C. 20004-1109
(202) 637-5600 Telephone
(202) 637-5910 Facsimile

Its Attorneys

November **13, 2002**

FOIA - Electronic FOIA (E-FOIA) Request Form

From: Ronnie London <rglondon@hhlaw.com>
To: <FOIA@fcc.gov>
Date: 10/16/2002 5:41 PM
Subject: Electronic FOIA (E-FOIA) Request Form

Ronnie London
 555 13th Street N.W.
 11W-309
 Washinton, DC U.S.
 20004

Phone Number: 202-637-8537
 Fax Number: 202-637-5910
 Email Address: rglondon@hhlaw.com

Date of Request: 10/16/02

Ronnie London Requests:

Please make available for copying or provide copies of the "over 11,000 complaints about telemarketing practices" received "during the period January 2000 through December 2001" as referenced in paragraph 8 of the FCC's recent Notice of Proposed Rulemaking in Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991, CC Docket No. 01-250 (rel. Sept. 18, 2002) (Telemarketing NPRM). Please also make available for copying or provide copies of all similar complaints about telemarketing practices the FCC has received since January 1, 2002. Please also make available for copying or provide copies of the "over 1,500 inquiries about predictive dialing" received "from June 2000 to December 2001" referenced in paragraph 26 of the Telemarketing NPRM. Finally, please also provide any non-publicly released FCC responses to the above-referenced complaints.

Maximum Fee: no limit

Listed In CFR 47:

If Yes Give Reasons for Inspection:

Is the requester entitled to a restricted fee assessment? No

If Yes Give Reasons for Inspection:

Any Additional Information and/or Comments:

Server protocol: HTTP/1.1
 Remote host: 205.138.200.84
 Remote IP address: 205.138.200.84

2002 OCT 17 A 9:25
 2003-02-23
 CONTROL STAFF

Received: from gatekeeperR.fcc.gov
 ([165.135.0.253])
 by gwmail.fcc.gov; Wed, 16 Oct 2002 17:40:40 -0400
 Received: by gatekeeper2.fcc.gov; id RAA05268; Wed, 16 Oct 2002 17:42:00 -0400 (EDT)
 Received: from unknown(192.104.54.252) by gatekeeper2.fcc.gov via smap (V5.5)
 id xma005255; Wed, 16 Oct 02 17:41:34 -0400
 Received: (from nobody@localhost)
 by www.fcc.gov (8.9.0/8.8.8) id RAA06856
 for FOIA@fcc.gov; Wed, 16 Oct 2002 17:41:32 -0400 (EDT)
 Date: Wed, 16 Oct 2002 17:41:32 -0400 (EDT)
 Message-Id: <200210162141.RAA06856@www.fcc.gov>
 To: FOIA@fcc.gov
 From: rgldonBhhlaw.com (Ronnie London)
 Reply-to: rgldonOhhlaw.com
 Subject: Electronic FOIA (E-FOIA) Request Form

Ronnie London
 555 13th Street N.W.
 11W-309
 Washington, DC U.S.
 20004

Phone Number: 202-637-8537
 Fax Number: 202-637-5910
 Email Address: rgldon@hhlaw.com

Date of Request: 10/16/02

Ronnie London Requests:

Please make available for copying or provide copies of the "over 11,000 complaints about telemarketing practices" received "during the period January 2000 through December 2001" as referenced in paragraph 8 of the FCC's recent Notice of Proposed Rulemaking in Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991. CC Docket No. 02-278, FCC 02-250 (rel. Sept. 18, 2002) (☐ Telemarketing NPRM ☐). Please also make available for copying or provide copies of all similar complaints about telemarketing practices the FCC has received since January 1, 2002. Please also make available for copying or provide copies of the ☐ over 1,500 inquiries about predictive dialing ☐ received ☐ from June 2000 to December 2001 ☐ referenced in paragraph 26 of the Telemarketing NPRM. Finally, please also provide any non-publicly released FCC responses to the above-referenced complaints.

Maximum Fee: no limit

Listed In CFR 47:

If Yes Give Reasons for Inspection:

Is the requester entitled to a restricted fee assessment? No

If Yes Give Reasons for Inspection:

Any Additional Information and/or Comments:

Sewer protocol: HTTP/1.1
 Remote host: 205.138.200.84
 Remote IP address: 205.138.200.84

HOGAN & HARTSON
L.L.P.

Writer's Direct Dial:
(202) 637-8637

COLUMBIA SQUARE
555 THIRTEENTH STREET, N.W.
WASHINGTON, DC 20004-1101
TEL (202) 637-5600
FAX (202) 637-5910
WWW.HHLAW.COM

November 7, 2002

BY ECFS

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W., TW-B204
Washington, D.C. 20554

**Re: Rules and Regulations Implementing the
Telephone Consumer Protection Act of 1991,
CG Docket No. 02-278**

Dear Ms. Dortch:

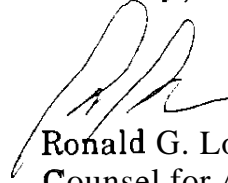
This letter provides notice that Robert Corn-Revere and Ronald London, counsel for the American Teleservices Association ("ATA"), along with Matt Mattingly, ATA's Director of Government Affairs, met yesterday with Dane Snowden, Chief of the Consumer & Governmental Affairs Bureau ("CGB"); June Taylor, CGB's Chief of Staff; Margaret Egler, Deputy Chief (Policy) for CGB; Thomas Wyatt, Deputy Chief (Inquiries and Complaints) for CGB; Michele Walters, Chief of CGB's Policy Division; Sumita Mukhoty, Director of CGB's Information Access and Privacy Office; Laurence Schecker, Attorney-Advisor in the Office of General Counsel's Administrative Law Division; and Erica McMahon and Richard Smith of CGB.

During the meeting, we discussed the Commission's timeframe for the above-referenced proceeding, as well as means by which ATA might obtain the data collected **by the** FCC referenced in *the* Notice of Proposed Rulemaking ("NPRM") in the proceeding. We also briefly discussed the proposed national do-not-call list that the Commission describes in the NPRM.

HOGAN & HARTSON LLP

If there are any questions regarding this matter, please contact the undersigned directly.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. London', written over a horizontal line.

Ronald G. London
Counsel for American
Teleservices Association

cc: Dane Snowden
June Taylor
Margaret Egler
Thomas Wyatt
Michele Walters
Sumita Mukhoty
Laurence Schecker
Erica McMahon
Richard Smith

HOGAN & HARTSON
L.L.P.

Writer's Direct Dial:
(202) 637-8637

COLUMBIA SQUARE
555 THIRTEENTH STREET, NW
WASHINGTON, DC 20004-1109
TEL (202) 637-5600
FAX (POP) 637-5910
WWW.HHLAW.COM

November 7, 2002

BY TELECOPY AND FIRST CLASS MAIL

Sumita Mukhoty
Director, Information Access and Privacy Office
Federal Communications Commission
Consumer and Government Affairs Bureau
445 12th Street, S.W.
Washington, D.C. 20554

Re: FOIA Request - Control No. 2003-023

Dear Ms. Mukhoty:

Based on our meeting of November 6, 2002, I am writing to clarify our federal Freedom of Information Act ("FOIA") request referenced above. The request was submitted on October 16, 2002, which triggered the deadlines governing the Commission's response. The FOIA request seeks the following information:

- (1) the "over 11,000 complaints about telemarketing practices" received "during the period January 2000 through December 2001" as referenced in paragraph 8 of the FCC's recent Notice of Proposed Rulemaking in *Rules and Regulation Implementing the Telephone Consumer Protection Act of 1991*, CG Docket No. 02-278, FCC 02-250 (rel. Sept. 18, 2002) ("*Telemarketing NPRM*");
- (2) all similar complaints about telemarketing practices the FCC has received since January 1, 2002;
- (3) the "over 1,500 inquiries about predictive dialing" received "from June 2000 to December 2001" referenced in paragraph 26 of the *Telemarketing NPRM* and

Sumita Mukhoty
November 7, 2002
Page 2

- (4) any non-publicly released FCC responses to the above-referenced complaints.

We are submitting this letter to memorialize our mutual understanding of the scope of our FOIA request.

Part 1. With respect to the portion of the FOIA request designated as (1) above, you and your colleagues present at the November 6, 2002, meeting did not indicate that any clarification was necessary. However, we hereby confirm that for purposes of this request, we define the term "complaint" in the same way as the Bureau in its quarterly reports on informal consumer inquiries and complaints.

Part 2. Our request designated as part (2) above refers to any complaints about telemarketing of the same character and/or that fit the same criteria as those counted among the 11,000 referenced at paragraph 8 of the *Telemarketing* NPRM. It seeks any complaints that were submitted to the FCC between January 1, 2002, and the present. In essence, as we discussed during the November 6 meeting, our request seeks all the "complaints about telemarketing" filed between January 1, 2002, and present, that would have been included in the figure the Commission discussed in paragraph 8 of the *Telemarketing* NPRM if the more recent period had been included in the Commission's tally of complaints.

Part 3. Our request designated as part (3) above seeks copies of the "inquiries about predictive dialing" the Commission references in the *Telemarketing* NPRM, to the extent such inquiries exist or are reflected in written form. During the November 6 meeting, we learned that some of the 1,500 inquiries referenced at paragraph 26 of the *Telemarketing* NPRM came into the Commission by telephone rather than in writing. To the extent that phone logs or other records reflect the substance of these inquiries, we request copies of such logs or records. Otherwise, we simply seek copies of all written inquiries that were included in the 1500 the Commission references at paragraph 26 of the *Telemarketing* NPRM.


Part 4. Our request designated as part (4) above seeks any written FCC responses to the complaints or inquiries requested in parts (1)-(3) of the FOIA request. This would include any letters, advice, opinions or other written materials not previously made part of the Commission's daily releases or published in the FCC Record during the relevant time period. If no such documents exist, we would appreciate your confirming that fact.

Sumita Mukhoty
November 7, 2002
Page 3

During the November 6 meeting, you indicated that a response to our FOIA request is due on November 14, 2002. It is our understanding from the meeting that you will respond to our request, in writing, by that date. Such response will include the projected cost of fulfilling our FOIA request. Also, if you determine it is not possible to fulfill our request by the November 14, 2002, the letter will provide notice of your intention to exercise the ten (10) day extension set forth in the rules. *See* 47 C.F.R. § 0.461(g). It is our understanding that a ten-day extension, if taken, would require a response to our request by November 29, 2002. If the reason the Commission is unable to meet the deadline is your position that all personally identifiable information must be redacted from the complaints or other documents, please identify the statutory basis for your position in your response.

Finally, during the meeting, we discussed your offer of a partial response, or sampling of responsive documents, by the deadline. We indicated we would consider how a sample could be compiled that would allow meaningful comment on the *Telemarketing NPRM* while we await a complete response to our request. We will address such a partial response more specifically in a separate letter.

Thank you again for your assistance in this matter. We hope that the clarifications we provide here will facilitate the Commission's response to our **FOIA** request. If you have any questions about the clarifications, or regarding our understanding or what we can expect in the way of response, please contact me.



Ronnie London

cc: Dane Snowden
June Taylor
Laurence Schecker
Margaret Egler
Thomas Wyatt
Michele Walters

HOGAN & HARTSON
L.L.P.

Writer's Direct Dial:
(202) 637-8637

COLUMBIA SQUARE
555 THIRTEENTH STREET, NW
WASHINGTON, DC 20004-1109
TU (202) 637-5600
FAX (202) 657-5910
WWW.HHLAW.COM

November 7, 2002

BY TELECOPY AND FIRST CLASS MAIL

Sumita Mukhoty
Director, Information Access and Privacy Office
Federal Communications Commission
Consumer and Government Affairs Bureau
445 12th Street, S.W.
Washington, D.C. 20554

Re: **FOIA Request - Control No. 2003-023**

Dear Ms. Mukhoty:

This follows on our meeting of November 6, 2002, regarding the above-referenced request under the federal Freedom of Information Act ("FOIA"). Part of our FOIA request includes the "11,000 complaints about telemarketing practices" described in ¶ 8 of the NPRM in *Rules and Regulation Implementing the Telephone Consumer Protection Act of 1991*, CG Docket No. 02-278, FCC 02-250 (rel. Sept. 18, 2002). During the November 6 meeting, your colleagues indicated that we could receive a representative sample of the requested complaints pending an effort to gather and provide all the documents responsive to that part of our FOIA request. Specifically, we were offered the opportunity to specify two months from the relevant time period January 2000-December 2001, from which you will provide the complaints received sufficiently in advance of the NPRM's November 22, 2002, comment deadline to allow reasonable analysis and comment.

The Commission's reliance on telemarketing complaints as one of its motivations for initiating a rulemaking makes the substance and nature of those complaints a critical factor in whether to adopt new rules. Thus, it is imperative that the parties receive a full and fair opportunity to review and, to the extent appropriate, comment on the complaints. We therefore remain interested in timely receiving all the documents sought by our FOIA request. The rules require a response to our FOIA request within 20 business days, *i.e.*, by November 14, 2002. You have indicated that it will take the Commission **six** to eight months to respond

Sumita Mukhoty
November 7, 2002
Page 2

to our FOIA request in full. During the meeting it became clear that we will likely be notified on November 14, 2002, of your intention to utilize the additional ten days provided under the rules, *see* 47 C.F.R. § 04.61(g), so an official initial response may not otherwise be provided until November 29, 2002, a week after the NPRM's November 22 comment deadline.

In the interest of receiving at least some of the documents necessary to help us meaningfully comment on the NPRM, we accept your offer to provide before the twenty-day deadline a two-month sampling of responsive documents, while the rest of the documents responsive to our **FOIA** request are compiled. Please provide the "complaints received about telemarketing practices" referenced at ¶ 8 of the NPRM for the months August 2001 and March 2002. Given the November 22, 2002, comment deadline for the NPRM, we request that these documents be provided no later than November 14, 2002. If for any reason this date is not feasible, we request that you contact us immediately upon receipt of this letter to discuss when we can expect fulfillment of the offer made during the meeting. We also request that you provide the remaining documents responsive to our FOIA request on a rolling basis as soon as they become available for release.

We thank you for your assistance in this matter and encourage you to contact us with any questions or further input you may have.

Sincerely,

/
 / Ronnie London

cc: Dane Snowden
June Taylor
Laurence Schecker
Margaret Egler
Thomas Wyatt
Michele Walters